United Nations A/63/923

General Assembly

Distr.: General
9 July 2009
English
Original: Spanish

Sixty-third session
Agenda item 23
Question of the Falkland Islands (Malvinas)

Letter dated 26 June 2009 from the Chargé d'affaires a.i. of the Permanent Mission of Argentina to the United Nations addressed to the Secretary-General

Upon instructions from my Government, I have the honour to transmit herewith the statement made by Mr. Jorge Enrique Taiana, Minister for Foreign Affairs, International Trade and Worship of Argentina, on 18 June 2009, at the meeting of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples on the question of the Malvinas Islands (see annex).

I should be grateful if you would have the present letter and its annex circulated as a document of the General Assembly, under agenda item 23.

(*Signed*) Diego **Limeres**
Minister
Deputy Permanent Representative

09-39883 (E) 200709 200709

Please recycle

Annex to the letter dated 26 June 2009 from the Chargé d'affaires a.i. of the Permanent Mission of Argentina to the United Nations addressed to the Secretary-General

Statement made by Mr. Jorge É. Taiana, Minister for Foreign Affairs, International Trade and Worship of Argentina in the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples concerning the Question of the Malvinas Islands (New York, 18 June 2009)

Allow me to begin by saying how pleased my delegation is to see you presiding, once more, over this Special Committee on decolonization, an organ that has special meaning and relevance for our country.

I should also like to express to the Committee and to the Secretariat our appreciation for what they are doing to achieve the noble goal of eradicating colonialism in all its forms and manifestations.

The noble mandate which was conferred upon this organ at the time of its inception is to review the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, namely, General Assembly resolution 1514 (XV), and it is our common concern.

This task should be conducted on a case-by-case basis, with the intelligence and promptness that each one demands.

It seems ironic that, whilst in other spheres on the international stage countries are striving to find ways to reach agreed solutions to the challenges of the times — the international financial crisis, climate change, non-proliferation of weapons of mass destruction, poverty and exclusion — this important Committee's noble efforts to put an end to colonialism in all its forms and manifestations, should continue to be thwarted, notwithstanding the fact that, back in 1960, the overwhelming majority of nations, stood up to protest the perpetuation of such an anachronism.

In the case of the Malvinas Islands, the General Assembly interpreted and applied resolution 1514 (XV) through resolution 2065 (XX) of 16 December 1965. The latter reiterated the pledge to put an end to colonialism in all its forms, one of which, it specifically stated, covered the case of the Malvinas Islands. It also recognized the existence of a sovereignty dispute between Argentina and the United Kingdom and invited the two countries to negotiate a peaceful solution to the dispute, bearing in mind the objectives of the Charter of the United Nations and General Assembly resolution 1514 (XV) and the interests of the inhabitants of the Islands.

That resolution was adopted by a vote of 94 to none, with 14 abstentions. The United Kingdom did not vote against it, but merely abstained. In 1966, the Argentine Republic and the United Kingdom embarked on a negotiating process that lasted until 1982 but failed to attain the goal set by the United Nations.

The inevitable swings in history, the differences of eras, of political times, of actors on each side of this dispute have not altered a fundamental fact: the solid and permanent protest of Argentine Governments since 1833, without distinction, at

what was a manifest eviction of the Argentine authorities and population present on the Islands.

That land was under Argentine sovereignty and was being peacefully and uninterruptedly ruled by Argentine authorities when it was seized, in 1833, by the United Kingdom, a country with which the Argentine Government at the time had friendly relations. The United Kingdom thus fractured the political unity and territorial integrity of the Argentine Republic; its continued occupation of the Islands was contrary to a fundamental principle enshrined in the Charter of the United Nations and resolution 1514 (XV), the guiding instrument in the decolonization process.

My country never consented to that act of usurpation, which was consolidated later with the implantation of a foreign population and the systematic ban on continental Argentines settling or owning lands in the Islands.

It is hard to think of a more flagrant example of a violation of rights in a single case than that of the illegal occupation of the Malvinas, South Georgias and the South Sandwich Islands by the United Kingdom.

I do not intend once more to list the historical facts, of which this Committee is well aware; they are summarized in document A/AC.109/106, dated 13 November 1964. I would rather reiterate that this case has specific features that prevent any comparison with other colonial cases. This has been thus recognized, unquestionably, by the Committee itself.

As I said a moment ago, the population of the Malvinas Islands was expelled by a colonial power that proceeded to transplant its own population onto the usurped land, a population that, in a situation of military protection, embarked on a life isolated from the continent by virtue of a "cordon sanitaire" policy that prevented the expelled Argentines from returning to the land that had been illegitimately seized by the occupying colonial power.

Such a population could never be considered to be subjugated or subject to a colonial power — although millions of people in the Americas, Africa and Asia definitely were. That population was both the instrument and the outcome of an act of usurpation carried out by a colonial power.

As the Argentine Government remarked in its declaration of 18 February 1985, addressed to the Secretary-General of the United Nations and distributed as a document of the fortieth session of the General Assembly, the United Kingdom itself ratified the British nature of the Islands' population — as though it had the right to apply legislation in Argentine territory — when the British parliament passed the British Nationality Act in 1983. To claim that the principle of self-determination should apply to that population would be a flagrant distortion of logic, justice, law and history.

The United Kingdom calls for the application of the principle of self-determination, while, at the same time, refusing to resume negotiations on sovereignty with the Argentine Republic, thus ignoring the international community's explicit and repeated mandate, as contained in the successive resolutions adopted by the United Nations, the Organization of American States and many regional and biregional forums for dialogue and cooperation.

The United Kingdom of Great Britain and Northern Ireland alleges that it will agree to resume negotiations with the Argentine Republic only if the inhabitants of the Islands so wish, ignoring the will of the Member States and unilaterally, without consultation, introducing a precondition not contained in any of this Organization's resolutions on the subject. The United Kingdom thus seeks to take advantage of resolution 1514 (XV), twisting its interpretation by refusing to acknowledge that the principle of territorial integrity applies to the question of the Malvinas Islands. In this way, the United Kingdom is distorting the primary goal of resolution 1514 (XV), which is none other than to put an end to colonial situations, not to perpetuate them.

That is why United Nations resolutions on the subject point to the need to take due account of the "interests" of the inhabitants of the Islands. In this regard, I would note that the Argentine Constitution goes even further, referring to the respect for the way of life of the inhabitants of the Islands.

In this specific case, by making resumption of negotiations on sovereignty conditional upon the wishes of the inhabitants of the islands the United Kingdom is simply trying to evade the United Nations call for a resumption of negotiations aimed at finding a just, peaceful and lasting solution to the sovereignty dispute over the Malvinas, South Georgias and the South Sandwich Islands and the surrounding maritime areas.

Let there be no doubt about one thing. Argentina's commitment to, and support for, the right to self-determination is unwavering and permanent; self-determination is a fundamental right to which all peoples subjected to foreign colonial domination are entitled. The Argentine nation itself was once a colony and it fought for its freedom and independence with the same drive and resolve with which it now supports the guiding principles of the decolonization process, as embodied in the relevant United Nations resolutions.

What Argentina unequivocally rejects is the manipulation of this key principle by a Member State, in favour of a population artificially implanted by that State on land taken from my country by force, land that forms part of Argentine territory.

Argentina is not alone in this line of reasoning. Whenever the United Kingdom has attempted to include references to the principle of self-determination in a resolution on this question, the General Assembly has categorically ratified the applicability of the principle of territorial integrity to the Malvinas Islands. The international community has thus been able to thwart this attempt to distort the principles and objectives of a General Assembly resolution.

We have no doubt regarding Argentine sovereignty over the Malvinas, South Georgias and the South Sandwich Islands and the surrounding maritime areas; they are an indivisible part of Argentine territory, whose integrity the United Kingdom violated with the act of force perpetrated in 1833.

Recovery of full sovereignty over the Malvinas, South Georgias and the South Sandwich Islands and the surrounding maritime areas is State policy and it reflects the collective wish, ever present and never relinquished, of the people of the Argentine nation. Nonetheless, we have expressed our willingness, on every occasion, to honour the obligation to resume the negotiations on sovereignty with the United Kingdom. This obligation applies to both parties.

Similarly, and as an unequivocal token of its commitment and constructive spirit, my Government has cooperated with the United Kingdom on practical aspects deriving from the de facto situation, with the due juridical protection and with the purpose of creating the framework that would allow both parties to resume the negotiations demanded by the international community.

In spite of this, the United Kingdom has committed numerous unilateral acts in the disputed area, acts that Argentina does not accept, that it has protested and that it will keep on protesting. Those unilateral acts undermine the bilateral cooperation agreed under the sovereignty formula and run counter not only to bilateral understandings but also to the relevant United Nations resolutions. Such unilateral acts include the illegal application of a quota regime on fisheries resources for a period of up to 25 years, the unlawful licensing of oil and gas activities as well as the British refusal to operate non-scheduled flights between mainland Argentina and the Malvinas Islands, despite the provisions of the Exchange of Notes Agreement of 23 February 2001, under the sovereignty formula. I must also mention the British attempt to include parts of Argentine national territory in its submission to the Commission on the Limits of the Continental Shelf, established under the United Nations Convention on the Law of the Sea. I must also stress the inherent illegality of the United Kingdom's extension of the territorial application of international conventions to the disputed areas, and its attempts to promote the participation of the Islands in international organizations and forums as an entity separate from Argentina.

In addition to the above, the presence of a powerful military base built by the United Kingdom on the Islands, does not contribute in any way to building confidence bilaterally in the military sphere, and is disturbing the maintenance of peace and security in the South Atlantic, an endeavour to which we, the Southern Cone countries, on the other hand, are strongly committed.

There is no doubt that these acts violate the mandate contained in General Assembly resolution 31/49, which calls upon the two parties to the dispute to refrain from taking decisions that would imply introducing unilateral modifications in the situation while the Islands are going through the process recommended by the United Nations.

I must also refer to the recent renewal of the colonial link between the British mainland and the Islands, in an attempt to give this link a supposed "constitutional" hierarchy. My country immediately protested the so-called "constitution" that the United Kingdom gave the Islands in November 2008, as this is a unilateral act by the United Kingdom related to an integral part of Argentine national territory and contravenes, once more, the resolutions of the United Nations. It also attempts to disguise, under the pretence of a supposed "modern" or "post-colonial" constitutionalism, the special and unique colonial situation resulting from the seizure of Argentine territory by force, the expulsion of the local population and its replacement by a British one, and attempts to define the latter as a population to which the principle of self-determination is applicable.

Accordingly, any attempt designed to grant "constitutions" or to foster notions of "self-government", under the supervision of the mother country, to colonial populations, made up of the subjects of the occupying power, is also irrelevant in terms of decolonization and only violates the mandate of the United Nations.

We will again reiterate well-known arguments. We must do so because the United Kingdom refuses to assume an international obligation and seeks to justify itself by capricious interpretations of principles, that were designed to bring justice to oppressed peoples, not to perpetuate injustice.

How can we even comprehend that such an unwavering refusal should come from one of the permanent members of the Security Council, the body responsible for the maintenance of international peace and security? How is it possible for it to be that same country, which joins in condemning countries that ignore resolutions of the General Assembly or the Security Council? Should we take it that, for certain countries, international obligations apply selectively?

We will definitely not accept that logic, and we know that the Committee will join us, again, in calling on Argentina and the United Kingdom to resume, once and for all, the negotiations that — if both parties show serious commitment — may bring us closer to the just and lasting solution that the United Nations desires.

At the beginning of my speech I made reference to the international situation. Today the international community firmly expects to be able to face the gravest challenges of the present times through a multilateral effort, founded on respect among nations and with the strong platform of international organizations.

Argentina believes — as do an overwhelming majority of nations — that we should work together in those areas that call for shared solutions, whether they be social, economic or human rights issues, or have to do with international security and non-proliferation.

We cannot and should not allow the continuation in the early days of the twenty-first century, of anachronistic situations relating to decolonization which drag us straight back to nineteenth century practices that can no longer be tolerated or defended as legitimate.

If the United Kingdom believes that the challenges of the international community should be confronted and resolved through dialogue and cooperation, in accordance with United Nations resolutions, it should demonstrate that belief in the decolonization forums as resolutely as in any other.

Concerning the importance and value of dialogue, I would like to recall what the President of Argentina, Mrs. Cristina Fernández de Kirchner, said when she announced, on 26 May 2009, that the relatives of the Argentine soldiers killed in the 1982 conflict would be travelling to the islands to inaugurate the memorial built at the Darwin cemetery, on Soledad Island.

She said that the diplomatic cooperation between the Governments of Argentina and the United Kingdom was the result of dialogue, had been the result of talks, and that it was a positive sign that dialogue and talks had led to that totally humanitarian act, whereby the relatives of Argentine combatants buried in the Malvinas would be able to travel to the Islands to inaugurate the memorial.

After five years of laborious exchanges, open and genuine dialogue has led the United Kingdom to realize that it is right for this trip to go ahead in the best way for the relatives themselves; it has ceased obstructing this justifiable desire of the Families Commission, within the framework of the provisional understandings in force, bilaterally adopted under the formula on sovereignty, which safeguard any and all aspects involved in the inauguration trip.

Argentina expects that the United Kingdom will pursue the path of dialogue in order to comply, once and for all, with what has been established by the international community in the many resolutions on the question of the Malvinas Islands. Argentina reiterates its permanent willingness to negotiate on the basis of international law, the principles enshrined in the Charter of the United Nations and the provisions of the many resolutions on the question of the Malvinas Islands.

We are certain that the work of the Committee will help us to make progress in the quest for a just and definitive solution to this anachronistic dispute.